

# **UNITED STATES BANKRUPTCY COURT**

**WESTERN DISTRICT OF PENNSYLVANIA  
M. BRUCE MCCULLOUGH, BANKRUPTCY JUDGE  
5464 USX Tower, 54th Floor, 600 Grant Street  
Pittsburgh, Pennsylvania 15219**

## **Counselors:**

The enclosed Trial Order and Notice sets an appropriate period for the conclusion of discovery and the date on which the pretrial statement/stipulation should be filed. With regard to discovery, the total number of written interrogatories submitted by a party shall not exceed thirty (30) questions, including subparts.

In accordance with Rule 7005 of the F.R.B., it is ORDERED that depositions upon oral examination and interrogatories, requests for documents, requests for admission, and answers and responses thereto are not to be filed unless an order of the Court or for use in a proceeding in this case.

Please use the enclosed form of pretrial statement/stipulation. The Purpose of this form is to encourage a pretrial interaction between counsel, and thus to simplify trial. The original pretrial statement/stipulation is to be circulated between counsel, however, a copy of each counsel's portion is to be filed with the court at the time hereinafter stipulated. At the appropriate time, the original pretrial statement/stipulation prepared by all counsel, should be filed with the court. Be certain to fill in the caption and action numbers accurately.

I call your attention to Sections III, IV and V of the form. These call for concise statements to the parties' contentions and nothing more. Evidentiary detail is to be omitted. With regard to Section VI, if there are not stipulated facts,

so state. Concerning Section IX, no brief will be accepted which exceeds twenty (20) pages in length except upon order of Court.

In the event you wish to petition the Court for an award of attorney's fees, you must comply with Local Rule 9016.1. With respect to fee petitions generally, I draw your attention to In re Continental Illinois Securities Litigation, 572 F. Supp. 931 (N.E. Ill. 1983), and In re Fine Paper Antitrust Litigation, 98 F.R.D. 48, 81-85 (E.D. Pa. 1983).

Yours very truly,

M. Bruce McCullough  
Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE**

**Debtor(s)**

**Bankruptcy No.**

**Movant(s)**

**Motion No.**

**vs.**

**Chapter**

**Respondent(s)**

**PRETRIAL STATEMENT/STIPULATION**

**It is stipulated by and between the parties that:**

**I. This is an action for:**

**II. Jurisdiction:**

**(State basis and whether facts relative to jurisdiction and/or venue are disputed or agreed.)**

**III. Movant's narrative statement of the case:**

**(Including particularly a statement of the plaintiff's theory of defendant's liability, plaintiff's injuries (personal and/or proprietary), and plaintiff's damages.)**

**IV. Respondent's narrative statement of the case:**

**V. Third Party Defendant's narrative statement of the case:**

**VI. The following facts are stipulated by the parties and require no proof:  
(here list each stipulated fact)**

**VII. The exhibits to be offered at the trial, together with a statement of all admissions by and all issues between the parties with respect thereto are as follows:**

- A. Here list all documents and things intended to be offered at the trial by each party, in the sequence proposed to be offered, with a description of each sufficient for identification and a statement of all admissions by and all issues between any of the parties as to the genuineness thereof, the due execution thereof, and the truth of the relevant matters of fact set forth therein or in any legend affixed thereto, together with a statement of any objection reserved as to the admissibility in evidence thereof: If no objections are noted following the description of an exhibit, the parties thereby agree to the admission of the exhibit.**
- B. Use the form enclosed following the next sheet as your exhibit list.**
- C. The courtroom practice which will be followed concerning exhibits is as follows:**
  - 1. Prior to the time set for commencement of trial, all exhibits shall be marked by counsel using exhibit labels. The labels must be marked to show whose exhibit it is and must state the date of the hearing.**

**Movants use exhibit numbers. Respondents use exhibit letters. Example:**



Movant (Name)
Exhibit #1
4/15/91

Respondent (Name)
Exhibit A
4/15/91

2. Counsel shall also prepare a list of exhibits on the form enclosed herein, in sequence, with a descriptive notation sufficient to identify each separately numbered exhibit and shall furnish a copy of the list to opposing counsel and two copies to the court at the commencement of trial.
3. Counsel shall provide the court and opposing counsel with copies of all exhibits along with submittal of pretrial stipulation. Copies provided in response to a pretrial order will suffice at trial.
4. Unless an objection is noted on the exhibit form, the exhibits will be admitted without further testimony. As to any objections noted the admissibility of those exhibits will be considered before any testimony is taken. Only those exhibits as to which a ruling on admission is reserved will require witness identification or authentication.
5. Counsel are the custodians of their exhibits throughout the trial.
6. All exhibits will be returned to the courtroom clerk at the conclusion of the trial. The clerk will retain the exhibits for 30 days after expiration of the time for appeal, then they will be destroyed. If there is no appeal and you wish to have your exhibits returned to you, you must make the necessary arrangements with the clerk prior to the said 30 day period.

[illegible]


**VIII. A complete list of all witnesses including names and addresses follows:**

**(If any witnesses are to be called as experts, an expert's report must be filed.)**

**IX: Issues of Law:**

**The following issues of law are contested and remain to be litigated upon the trial.**

**(A brief should be filed by each of the parties setting forth the authorities in support of their respective legal positions.)**

**X. Stipulation:**

The foregoing admissions of fact having been made, and the parties having specified the issues of fact and law remaining to be litigated, this stipulation shall supplement the pleadings and govern the course of the trial unless modified to prevent injustice.

**XI. Authorization:**

My signature on this document authorizes the parties and/or their attorney(s) to examine all pertinent records and acknowledges that I have reviewed all documents and exhibits identified herein by all other parties and/or their attorney(s).

**STIPULATED AND AGREED BY:**

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**Attorney for Movant**

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**Attorney for Respondent**

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**Attorney for Third Party Defendant**

**Note: If sufficient space is not available under any title of stipulation to set forth all matters, attach a supplemental paper of the same size as this form.**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE**

	)	
	)	
	)	
	)	<b>Bankruptcy No.</b>
<b>Debtor(s)</b>	)	
	)	
	)	
	)	<b>Adversary No.</b>
	)	
<b>Movant(s)</b>	)	<b>Chapter</b>
	)	
<b>vs.</b>	)	
	)	
	)	
	)	
<b>Respondent(s)</b>	)	

**TRIAL ORDER AND NOTICE (FRB 16e)**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it is hereby ORDERED that all discovery closes on \_\_\_\_\_. IT IS FURTHER ORDERED that all preliminary motions including motions for summary judgment must be filed by \_\_\_\_\_, if pleadings are not filed within the specified time period, the Court's calendar will not permit the motion(s) to be heard prior to the date of trial. IT IS FURTHER ORDERED that counsel for the parties file with the Clerk and serve upon opposing counsel a Pretrial Statement using the enclosed form which shall include the following:

1. A brief statement of the case, including proposed findings of fact and conclusion of law.
2. The names and addresses of witnesses expected to be called.
3. A list of the exhibits to be offered.

Movant's portion of the Pretrial Statement/Stipulation shall be finalized and served on Respondents and a copy filed with the court on or before \_\_\_\_\_. Respondent's portion of the Pretrial Statement/Stipulation shall be finalized and served on any other Respondents and the Movant and a copy filed with the court on or before \_\_\_\_\_. Any Third Party Defendant's portion of the Pretrial Statement/Stipulation shall be finalized and served on the Movant, Respondents and a copy filed with the court on or before \_\_\_\_\_. The completed Pretrial Statement/Stipulation shall be filed with the Court on or before \_\_\_\_\_.

IT IS FURTHER ORDERED that a trial in the above-captioned matter will commence on \_\_\_\_\_, at \_\_\_\_\_. All of the matters above

scheduled will be heard in Courtroom B., 54th Floor USX Tower, 600 Grant Street, Pittsburgh Pennsylvania.

Failure by any party to comply with this order may result in sanctions being implemented on said party by, inter alia, fine, reprimand, dismissal, and/or prohibition against said party for offering testimony.

At Pittsburgh, Pennsylvania.

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M. BRUCE MCCULLOUGH  
U.S. Bankruptcy Judge